

AGENDA

SCHOOL CHARTER COMMISSION

September 02, 2020

**Commissioners Lopez, Baines, Clayton,
D'Allesandro, Freiras, Infantine,
Lachance, Lehoux, Sullivan**

6:00 p.m.

**Aldermanic Chambers
City Hall (3rd Floor)**

1. Chairman Lopez calls the meeting to order.
2. The Clerk calls the roll.
3. Minutes from the public hearing and regular meeting held August 6, 2020.
(Note: Previously distributed to the commission via email for review.)

A motion is in order to accept the minutes.

4. Chairman Lopez advises at this time there is to be a discussion regarding the letter received from the Attorney General's Office dated September 1, 2020.
5. New business to come before the commission.
6. Chairman Lopez advises that if there is no further business, a motion is in order to adjourn.

**ATTORNEY GENERAL
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September 1, 2020

Michael Lopez, Chairman
City of Manchester School District Charter Commission
1 City Hall Plaza
Manchester, NH 03101

Re: Manchester School District Charter Amendment
Request for Reconsideration and Supplemental Charter Amendment Proposal

Dear Chairman Lopez:

This letter serves as (1) a response to your July 22, 2020 request for reconsideration of the decision by the Attorney General, Secretary of State's Office and the Department of Revenue Administration (the "reviewing agencies") of July 17, 2020, and (2) a response to your supplemental charter amendment proposal containing a review process in accordance with RSA 49-B:15. Our response is made pursuant to RSA 49-B:4-a.

1. Request for Reconsideration

On May 27, 2020, the Manchester School District Charter Commission sent a letter to the reviewing agencies, with proposed substantive charter amendments to the Manchester School District portion of the City of Manchester's Charter and requested approval thereof pursuant to RSA 49-B:4-a.

The reviewing agencies acknowledged receipt of the charter amendment proposal by letter dated June 5, 2020.

On July 17, 2020, the reviewing agencies made a determination that based on the proposed Charter amendments to the City of Manchester's Charter, the process under RSA 49-B:15 had not been followed, and, as a result, the reviewing agencies could not engage in their review process under Chapter 49-B. We further concluded that RSA 49-B:15 requires the Commission, "to first structure a procedure to revise, amend, or replace the Manchester School District charter, before it can make substantive changes to the school district charter."

On July 22, 2020, the Charter Commission, through counsel, requested reconsideration of

this determination on the grounds that the City of Manchester and the School District were merged into one charter, and with that merger, this Charter already contained a process for revising, amending and replacing the Charter, including the provisions relevant to the School District, without legislative approval. Thus, the Charter Commission argued that no additional statutory authorization was needed for its May 27 proposed charter amendments as nothing in RSA 49-B:15 divests the Charter Commission of its powers of general Charter review authority granted to it under RSA 49-B:4-e.

With its July 22, 2020 request for reconsideration, the Charter Commission does not make any changes to the substance of the Charter amendments proposed on May 27, 2020. Instead, it reiterates the bases already presented in its May 27 proposal and advises the reviewing agencies to “commend...a better reading of RSA 49-B:15.” Respectfully, the reviewing agencies disagree with the Charter Commission’s analysis.

RSA 49-B:15 was introduced as HB544 during the 2019 legislative session. The legislative history makes clear that RSA 49-B:15 was enabling legislation for the Manchester School Board to establish a charter commission and for the local voters to vote on the procedure for which the Charter was to be revised, amended or replaced at the November 2020 election. For the Charter Commission to revise, amend or replace the Charter without the Manchester voters establishing a procedure to do so at the November 2020 election, would negate the express legislative intent of RSA 49-B:15.¹

Based on the reasons set forth in our July 17, 2020 letter and in consideration of the legislative intent of RSA 49-B:15, the Charter Commission’s request for reconsideration is denied.²

2. Supplemental Charter Amendment Request

On August 7, 2020, the Charter Commission proposed a supplemental amendment to the City Charter that relates “solely to a procedure for revising, replacing or amending the Manchester City Charter as it pertains to the City of Manchester School District” pursuant to RSA 49-B:15.

The reviewing agencies do not object to the proposed amendment to the existing City charter as it pertains to the City of Manchester School District.

Please feel free to contact my office if you have any questions.

¹ Minutes from Senate Election Law and Municipal Affairs Committee, HB 544, Representative Long – The bill will allow them [Manchester School Board] to come up with a charter commission on how they will arrange this process and the voter will decide at the polls. (May 16, 2019).

² Minutes from Senate Election Law and Municipal Affairs Committee, HB 544, Bradford Cook – Senator Gray commented that his objection is that he could do charter changes in his town and it would go before the citizens and asked if Manchester could do the same thing. Mr. Cook explained that when he was in office the School Board of Manchester had to take the city to court to make changes. With this legislation the voters would be voting on a new process. (May 16, 2019).

Sincerely,



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cc: David Scanlan, Deputy Secretary of State
Derek Kline, Department of Revenue Administration
Dean Eggert, Esq.

Senate Election Law and Municipal Affairs Committee
Tricia Melillo 271-3077

HB 544, relative to the governance of the Manchester school district.

Hearing Date: May 16, 2019

Members of the Committee Present: Senators Levesque, Sherman, Morgan, Birdsell and Gray

Members of the Committee Absent : None

Bill Analysis: This bill requires the establishment of a charter commission to recommend a procedure to revise, amend, or replace the Manchester school district charter without legislative approval.

Sponsors:

Rep. Long

Who supports the bill: Representative Pat Long

Who opposes the bill: None

Summary of testimony presented in support:

Representative Long

- Every year there are arguments between the Aldermen and the School Board in Manchester over the school budget.
- Now that he is a School Board member he sees their real funding needs.
- Currently there is no accountability about budget matters.
- It is time to let the citizens of Manchester decide if they would like the School Board to be autonomous where the budget is concerned.
- This bill will allow them to come up with a charter commission on how they will arrange this process and then the voters will decide at the polls.
- This bill addresses only the school district and not other departments in the town.
- Senator Levesque asked what the Aldermen are saying about this plan. Representative Long answered that they are on board with this. There are some that are concerned that the School Board will tax them out of their house. In other places where this has happened it took a couple of budget cycles before the people were comfortable with it.
- Senator Birdsell commented that the school budgets keep going up and the town has no control wouldn't this be the same situation if you remove the Aldermen from the budget process. Representative Long replied that currently it looks like both the Aldermen and the School Board are incompetent for fighting over the budget. Changing the process gives the voters the choice to implement it and still have the option of voting out any School Board member who may be negligent with the responsibility. They are not accountable right now this legislation would hold them accountable to the voters.
- Senator Gray commented that currently the city of Manchester has a charter and passing this would seem like the legislators are taking away local control.

Representative Long answered that every time they fight over the budget a Representative has to draft a bill to help the situation. This will give more local control by not having to ask the state house for permission to deal with the school budget the way the voters want.

- Senator Gray asked if it would make sense to make some way for the people to petition for what they want – this bill allows the voters to decide who has autonomy over the budget – this allows the voters to decide
- Senator Levesque asked if other towns have done this – there are some , Concord and Keene in some ways
- Senator Levesque clarified that currently the Alderman have to approve the school board budget. Representative Long replied yes.
- Senator Levesque also clarified that this bill will allow the school board to be autonomous and it is enabling legislation. Representative Long answered that was correct.
- Senator Levesque asked if currently, if the School Board does not give the Aldermen a budget that fits what they have approved they have to cut programs. He answered that was correct also.
- Senator Levesque asked if that has put Manchester in a negative situation. Representative Long stated that yes, it causes them to struggle over cuts and increases.
- Senator Levesque asked when the vote would be to enable this legislation. Representative Long answered in November of 2020 the voters would decide.

Bradford Cook – NH Ballot Law Commission, Chairman

- If this Legislation went before the voters, it would be letting them decide if the School Board could be autonomous and not telling them.
- Senator Gray commented that his objection is that he could do charter changes in his town and it would go before the citizens and asked if Manchester could do the same thing. Mr. Cook explained that when he was in office the School Board of Manchester had to take the city to court to make changes. With this legislation the voters would be voting on a new process.

Summary of testimony presented in opposition: None

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Date Hearing Report completed: May 17, 2019